

JOSEPH P. RUSSONIELLO (CSBN 44332)  
 United States Attorney  
 JOANN M. SWANSON (CSBN 88143)  
 Chief, Civil Division  
 CLAIRE T. CORMIER (CSBN 154364)  
 JAMES A. SCHARF (CSBN 152171)  
 Assistant United States Attorneys

\*E-Filed 11/10/09\*

150 Almaden Boulevard, Suite 900  
 San Jose, California 95113  
 Telephone: (408) 535-5082  
 Facsimile: (408) 535-5081  
 claire.cormier@usdoj.gov

Attorneys for Defendant United States of America

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

GARY NIVA and ALINKA NIVA, as  
 Administrators of the Estate of ERIC  
 AUSTIN NIVA, deceased,  
 Plaintiffs,  
 v.  
 UNITED STATES OF AMERICA,  
 Defendant.

No. C 03-0908 RS  
 STIPULATION AND ~~PROPOSED~~  
 ORDER VACATING TRIAL AND  
 PRETRIAL SCHEDULE  
 Trial Date: November 23, 2009

This case is currently scheduled for trial on November 23, 2009.

The parties participated in a mediation on November 3, 2009 and have reached a contingent settlement. The settlement must be approved by the Assistant Attorney General before it can be submitted to the Court. Accordingly, the parties hereby STIPULATE AND REQUEST that the current trial and pretrial schedule, including the trial date of November 23, 2009, be vacated and a status conference be set in approximately 60 days.

//

//

//

STIPULATION AND ~~PROPOSED~~ ORDER VACATING TRIAL DATE  
 C 03-0908 RS

Respectfully submitted,

DATED: November 5, 2009

JOSEPH P. RUSSONIELLO  
United States Attorney

/s/ Claire T. Cormier<sup>1</sup>

\_\_\_\_\_  
CLAIRE T. CORMIER  
Assistant United States Attorney

DATED: November 4, 2009

THE BOCCARDO LAW FIRM LLP

/s/ John C. Stein

\_\_\_\_\_  
JOHN C. STEIN  
Attorney for Plaintiff

~~PROPOSED~~ ORDER

Upon stipulation of the parties and good cause appearing, IT IS HEREBY ORDERED that the pretrial schedule and the trial date for this action are VACATED. Unless a stipulation of dismissal is filed, Counsel shall appear for a status conference on January 13, 2010 at 2:30 p.m.

DATED: November 9, 2009

  
\_\_\_\_\_  
RICHARD SEEBORG  
United States Magistrate Judge

<sup>1</sup> I, Claire T. Cormier, hereby attest that I have on file all holographic signatures for any signatures indicated by a "conformed" signature (/s/) within this e-filed document.  
STIPULATION AND ~~PROPOSED~~ ORDER VACATING TRIAL DATE  
C 03-0908 RS